

Under this amendment it not only limits the fact that the funds may be obligated but it specifically goes on to affirmatively direct the Secretary to distribute such arms under title X, which is an affirmative obligation, which is exactly the kind of obligation the rules prohibit, and I renew my point of order. . . .

THE CHAIRMAN:⁽¹¹⁾ The Chair is ready to rule.

The Chair has read the section to which the gentleman refers, title 10, United States Code, section 4308, and is of the opinion that it does not require that all firearms be distributed to qualified purchasers. The Chair further feels that while the first part of the amendment is a limitation, the last part of the amendment is a curtailment of Executive discretion, and the Chair sustains the point of order.

§ 6. Amendments Between the Houses

A rule of the House⁽¹²⁾ prohibits its conferees from agreeing to certain Senate amendments to gen-

11. Daniel D. Rostenkowski (Ill.).

12. Rule XX clause 2, *House Rules and Manual* §829 (1973). For further discussion of issues arising between the House and Senate with respect to appropriation bills generally, and appropriations on legislative bills, see Ch. 25 §13, *supra*. See also Ch. 32, *House-Senate Relations*, *infra*; Ch. 33, *House-Senate Conferences*, *infra*. And, see Ch. 13, *Powers and Prerogatives of the House*, *supra*.

eral appropriation bills absent specific authority conferred by the House. The rule provides:

No amendment of the Senate to a general appropriation bill which would be in violation of the provisions of clause 2 of rule XXI,⁽¹³⁾ if said amendment had originated in the House, nor any amendment of the Senate providing for an appropriation upon any bill other than a general appropriation bill, shall be agreed to by the managers on the part of the House unless specific authority to agree to such amendment shall be first given by the House by a separate vote on every such amendment.⁽¹⁴⁾

Amendments to Senate Amendment

§ 6.1 When the House was considering a Senate amendment to a general appropriation bill proposing an expenditure not authorized by law, it was held to be in order in the House to amend such Senate amendment by germane amendments that were legislative in nature.

On Feb. 8, 1937,⁽¹⁵⁾ the House was considering a Senate amend-

13. See § 1, *supra*, for discussion of Rule XXI clause 2.

14. Managers may be authorized to agree to an appropriation by a resolution reported from the Committee on Rules. See 7 *Cannon's Precedents* §1577.

15. 81 CONG. REC. 975, 976, 75th Cong. 1st Sess.

ment in disagreement on H.R. 3587, a deficiency appropriation bill. The Clerk read as follows, and proceedings ensued as indicated below:

Senate amendment no. 9: Strike out, after the word "appropriation", the following language "or of the appropriation in the Emergency Relief Appropriation Act of 1936 shall be used hereafter to pay the compensation of any person, not taken from relief rolls, detailed or loaned for service in connection with any investigation or inquiry undertaken by any committee of either House . . ." and insert "or of any appropriation for any executive department or independent executive agency shall be used hereafter to pay the compensation of any person detailed or loaned for service in connection with any investigation or inquiry undertaken by any committee of either house of Congress . . . unless the . . . agency . . . from whose staff such person is detailed or loaned shall render to the Secretary of the Senate or the Clerk of the House of Representatives . . . a statement on or before the 10th day of each month of number, grade, or status . . . of the persons so detailed or loaned from the staff of such . . . agency . . . during the preceding calendar month."

Mr. [CLIFTON A.] WOODRUM [of Virginia]: Mr. Speaker, I move to recede and concur in the Senate amendment with an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Mr. Woodrum moves that the House recede from its disagreement to Senate amendment no. 9 and

agree to the same with an amendment, as follows: In lieu of the matter inserted by said amendment insert the following: "or of any appropriation or other funds of any executive department or independent executive agency shall be used after June 30, 1937, to pay the compensation of any person detailed or loaned for service in connection with any investigation or inquiry undertaken by any committee of either house of Congress under special resolution thereof."

Mr. [HENRY] ELLENBOGEN [of Pennsylvania]: Mr. Speaker, I offer a preferential motion, which I send to the Clerk's desk.

The Clerk read as follows:

Mr. Ellenbogen moves that the House recede and concur in Senate amendment no. 9. . . .

THE SPEAKER PRO TEMPORE:⁽¹⁶⁾ The gentleman from Virginia demands a division of the question. The question is, Shall the House recede from its disagreement to the Senate amendment?

The question was taken, and the motion to recede was agreed to.

Mr. Woodrum: Mr. Speaker, I move to concur in the Senate amendment with an amendment, which I send to the Clerk's desk.

The Clerk read as follows:

Mr. Woodrum moves that the House concur in the Senate amendment with an amendment as follows: In lieu of the matter inserted by said amendment insert the following: "or of any appropriation or other funds of any executive department or independent executive agency shall be used after June 30, 1937, to pay the compensation of any person detailed or loaned for service in connection

16. John J. O'Connor (N.Y.).

with any investigation or inquiry undertaken by any committee of either House of Congress under special resolution thereof.”

MR. ELLENBOGEN: Mr. Speaker, I make the point of order that the motion of the gentleman from Virginia violates the rules of the House in that it is legislation on an appropriation bill.

THE SPEAKER PRO TEMPORE: The Chair will state that the Senate amendment is legislation, and the amendment to that amendment offered by the gentleman from Virginia is not out of order because it contains legislation. The Chair therefore overrules the point of order.

Instance of Consideration of Senate Amendments in Committee of the Whole

§ 6.2 Where an appropriation bill was amended by the Senate and a conference requested by the Senate, and the Senate amendments then referred by the Speaker to the House Committee on Appropriations, that committee reported out an alternative bill on the same subject; upon the Senate’s refusal to consider the second bill, the House committee then reported back the Senate amendments to the first bill, which were considered and amended in Committee of the Whole and then sent to conference.

On June 1, 1945, the House Committee on Appropriations reported out H.R. 3368, the National War Agencies appropriation, 1946.⁽¹⁷⁾

On June 8, 1945,⁽¹⁸⁾ the Committee on Rules reported a resolution (H. Res. 289), subsequently adopted, waiving points of order against legislative provisions in the bill. The House then resolved itself into the Committee of the Whole⁽¹⁹⁾ or consideration of the bill. During such consideration, Mr. Vito Marcantonio, of New York, offered an amendment to provide appropriations for continuance of the Fair Employment Practice Committee, a measure with considerable support in the House. A point of order having been raised against the amendment, Chairman John J. Sparkman, of Alabama, sustained the point of order, ruling that the amendment was out of order as legislation on an appropriation bill.⁽¹⁾ The bill subsequently passed the House.⁽²⁾

On June 20, 1945, H.R. 3368 was reported in the Senate.⁽³⁾ Fol-

17. 91 CONG. REC. 5450, 79th Cong. 1st Sess.

18. *Id.* at pp. 5795–99.

19. *Id.* at p. 5799.

1. *Id.* at p. 5831.

2. *Id.* at pp. 5832, 5833.

3. *Id.* at p. 6322

lowing the report, Senator Dennis Chavez, of New Mexico, submitted a written notice, at the direction of the Senate Committee on Appropriations, that it was his intention to move to suspend the rules for the purpose of proposing an amendment to H.R. 3368 to insert provisions for the appropriation for the Committee on Fair Employment Practice.⁽⁴⁾

On June 30, 1945, the Senate considered and adopted the amendment proposing such appropriation, and subsequently passed the bill and requested a conference.⁽⁵⁾

On July 2, 1945, Speaker Sam Rayburn, of Texas, pursuant to his discretionary authority under Rule XXIV clause 2, referred H.R. 3368 with Senate amendments to the Committee on Appropriations.⁽⁶⁾

4. *Id.* at pp. 6322, 6323.

Parliamentarian's Note: The Senate rules sought to be suspended were Rule XVI clauses 1 and 4, relating to amendments to appropriation bills. Written notice of intention to move for suspension of the rules under certain circumstances was required by Senate Rule XL.

5. 91 CONG. REC. 7068, 79th Cong. 1st Sess.

6. *Id.* at p. 7142.

Parliamentarian's Note: Before this reference was made, a unanimous-consent request and an effort to obtain a resolution from the Com-

mittee on Appropriations reported out H.R. 3649,⁽⁷⁾ which was similar in effect to H.R. 3368 and included some of the measures added by the Senate, but which did not include the appropriation for the Committee on Fair Employment Practice. Points of order were reserved by Members against the bill. An effort was made to obtain a resolution from the Committee on Rules waiving points of order against the legislative provisions contained in H.R. 3649, but requests therefore were denied.

On July 5, 1945,⁽⁸⁾ the House resolved itself into the Committee of the Whole for consideration of H.R. 3649. General debate had been waived. But numerous points of order were raised against provisions of H.R. 3649 that appropriated for war agencies.⁽⁹⁾ the basis of these points of order, many provisions of the bill were deleted before the bill was passed and sent to the Senate. After it became apparent that the Senate

mittee on Rules of the House making it in order to take H.R. 3368 as amended from the Speaker's table, disagree with the amendments, and agree to a conference both failed.

7. 91 CONG. REC. 7189, 79th Cong. 1st Sess.

8. *Id.* at pp. 7226.

9. *Id.* at pp. 7226-36.

would not consider H.R. 3649, the Committee on Appropriations of the House, on July 11, 1945, reported out H.R. 3368 with the Senate amendments.⁽¹⁰⁾

On July 12, 1945, the House resolved itself into the Committee of the Whole; dispensed with general debate; considered Senate amendments to H.R. 3368 under the five-minute rule and concurred with an amendment to the Senate amendment containing the appropriation for the Fair Employment Practice Committee; and, after disagreeing with other Senate amendments, agreed to the conference requested by the Senate.⁽¹¹⁾ Thereafter, the Senate agreed to the House amendment to the Senate amendment relating to the Committee on Fair Employment Practice,⁽¹²⁾ and on July 13, 1945, the conference report on H.R. 3368 was agreed to by both Houses.⁽¹³⁾

Unanimous Consent; House Conferees Authorized To Agree to Senate Amendments Notwithstanding Rule XX Clause 2

§ 6.3 Form of a unanimous-consent request to send an ap-

10. *Id.* at p. 7404.

11. *Id.* at pp. 7474–94.

12. *Id.* at p. 7464.

13. *Id.* at pp. 7510, 7534.

propriation bill to conference and authorize the House conferees to agree to Senate legislative amendments notwithstanding the restrictions contained in Rule XX clause 2.

On June 3, 1936,⁽¹⁴⁾ Member addressed Speaker Joseph W. Byrns, of Tennessee, to make the following request:

MR. [JAMES P.] BUCHANAN [of Texas]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill H.R. 12624, the first deficiency appropriation bill, together with the Senate amendments thereto, disagree to the Senate amendments, and agree to the conference requested by the Senate; also that the managers on the part of the House, notwithstanding the provisions of clause 2, rule XX, be authorized to agree to any Senate amendment with or without amendment, except the Senate amendment having to do with the Florida ship canal and the Senate amendment providing \$300,000,000 for public-works projects.

THE SPEAKER: Is there objection to the request of the gentleman from Texas? . . .

There was no objection.

The Chair appointed the following conferees: Mr. Buchanan, Mr. Taylor of Colorado, Mr. Oliver, Mr. Woodrum, Mr. Boylan, Mr. Cannon of Missouri, Mr. Taber, Mr. Bacon, and Mr. Thurston.

14. 80 CONG. REC. 8822, 74th Cong. 2d Sess.

§ 6.4 Form of a unanimous-consent request to take from the Speaker's table an appropriation bill with Senate amendments thereto; disagree to the Senate amendments; agree to the conference asked by the Senate; and to give the managers on the part of the House authority to agree to the amendments of the Senate with amendments, notwithstanding the provisions of Rule XX clause 2 and to consider the conference report any time after filed.

On July 2, 1947,⁽¹⁵⁾ Member addressed Speaker Joseph W. Martin, Jr., of Massachusetts, to make the following request:

MR. [JOHN] TABER [of New York]: Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4031) making appropriations to meet emergencies for the fiscal year ending June 30, 1948, and for other purposes, with Senate amendments thereto, disagree to the Senate amendments, and agree to the conference asked by the Senate; and that the managers on the part of the House have authority to agree to the amendments of the Senate with amendments, notwithstanding the provisions of clause 2 of rule XX, and that the conference report may be considered at any time.

15. 93 CONG. REC. 8131, 80th Cong. 1st Sess.

THE SPEAKER: Is there objection to the request of the gentleman from New York? (After a pause.) The Chair hears none and appoints the following conferees: Messrs. Taber, Wigglesworth, Engel of Michigan, Stefan, Case of South Dakota, Keefe, Kerr, and Mahon.

Point of Order Against Senate Amendment Reported in Disagreement

§ 6.5 When an amendment is adopted by the Senate which, had it been offered in the House, might have been subject to a point of order as in violation of Rule XXI clause 2, and the conferees report such amendment in disagreement, the House may consider the amendment.

On Oct. 6, 1949,⁽¹⁶⁾ the following proceedings took place:

MR. [MICHAEL J.] KIRWAN [of Ohio]: Mr. Speaker, I call up the conference report on the bill (H.R. 3838) making appropriations for the Department of the Interior for the fiscal year ending June 30, 1950, and for other purposes, and ask unanimous consent that the statement of the managers on the part of the House be read in lieu of the report.

The Clerk read the title of the bill.

MR. [WESLEY A.] D'EWART [of Montana]: Mr. Speaker, I wish to make a point of order against a provision of this bill.

16. 95 CONG. REC. 14028, 14038, 14039, 81st Cong. 1st Sess.

THE SPEAKER:⁽¹⁷⁾ The gentleman can reserve the right to make that point of order later.

Is there objection to the request of the gentleman from Ohio?

There was no objection.

After adoption of the conference report, the House considered the amendments reported in disagreement.

THE SPEAKER: The Clerk will report the next amendment in disagreement.

The Clerk read as follows:

Senate amendment No. 132: Page 56, line 7, insert the following: “: *Provided further*, That no part of this or prior appropriations shall be used for construction, nor for further commitments to construction of Moorhead Dam and Reservoir, Mont., or any feature thereof until a definite plan report thereon has been completed, reviewed by the States of Wyoming and Montana, and approved by the Congress.”

MR. D'EWART: MR. Speaker, a point of order.

THE SPEAKER: The gentleman will state the point of order.

MR. D'EWART: Mr. Speaker, I make a point of order against the provision. . . .

I make this point of order under rule 21, as it is clearly legislation on an appropriation bill; (1) because it is an affirmative direction and (2) it restricts executive discretion to a degree that may be fairly termed a change in policy. I call the Speaker's attention to page 422, section 844 of the House Rules and Manual, which reads, in part, as follows:

A provision proposing to construe existing law is in itself a proposition of legislation and therefore not in order.

On page 423 in the same section, I quote further:

A paragraph which proposes legislation being permitted to remain may be perfected by a germane amendment, but this does not permit an amendment which adds additional legislation. And where a Senate amendment proposes legislation, the same principle holds true.

I would call further the Speaker's attention to section 845, which reads, in part, as follows: . . .

In construing a proposed limitation, if the Chair finds the purpose to be legislative, in that the intent is to restrict executive discretion to a degree that may be fairly termed a change in policy rather than a matter of administrative detail, he should sustain the point of order.

Mr. Speaker, I submit that the amendment to the appropriation bill is an affirmative direction and restricts executive discretion to a degree that may be fairly termed a change in policy. . . .

THE SPEAKER: . . . The Chair will state that if an amendment of this sort had been proposed in the House of Representatives when this bill was under consideration in all probability it would have been subject to a point of order. The Chair does not feel that in this case it is a violation of clause 2 of rule 21, for the simple reason that it has been held as early as 1921 by Mr. Speaker Gillette that when an amendment that might have been subject to a point of order in the House if offered here was adopted by the Senate, and

17. Sam Rayburn (Tex.).

the conferees reported such an amendment in disagreement the House may consider the amendment.

Therefore, the Chair must overrule the point of order of the gentleman from Montana.

MR. KIRWAN: Mr. Speaker, I move that the House recede and concur in the Senate amendment.

Conferees' Authority Where Rule Waived Against House Provision

§ 6.6 Where an appropriation bill is considered in the House under a rule waiving points of order against a provision therein which is unauthorized by law, and the Senate then amends the unauthorized provision, reducing the sum of money involved and striking out a portion of the language, House conferees may (without violating the provisions of Rule XX clause 2) agree to a sum between the two versions and restore the House language.

On Dec. 20, 1969,⁽¹⁸⁾ during consideration in the House of the conference report on the foreign assistance appropriation bill (H.R. 15149) the following point of order was raised, and proceedings ensued as indicated below:

MR. [SIDNEY R.] YATES [of Illinois]:
Mr. Speaker, I make a point of order

18. 115 Cong. Rec. 40445-48, 91st Cong. 1st Sess.

against that portion of the conference report which provides funds for the purchase of planes for the Republic of China on the ground that it is an appropriation that is not authorized by law.

I read from the conference report on the authorization bill which appears in the Congressional Record of December 18 on page 39841 relating to the military assistance, section 504 of the act.

The House bill authorized a total of \$454,500,000 for military assistance of which \$350,000,000 was for worldwide allocation; \$50,000,000 for Korea; \$54,500,000 for the Republic of China.

The Senate amendment authorized a total of \$325,000,000 without any allocation to specified countries.

The managers on the part of the House agreed to the authorization of \$350,000,000 without specifying any country allocation. They found it impossible to obtain agreement to a larger total for military assistance and believe that any specific additional allocation for Korea or for the Republic of China would result in a drastic curtailment of the worldwide authorization which would be detrimental to our national security.

So in the basic law, in the authorization law there is no allocation specifically of funds for any country and I suggest that the appropriation of funds in a specific amount for military assistance to a particular country is without authorization of law. . . .

THE SPEAKER:⁽¹⁹⁾ [T]he Chair recalls that when this appropriation bill passed the House, it was considered under a rule waiving points of order.

19. John W. McCormack (Mass.).

The House agreed to a total figure for military assistance of \$454,500,000. The Senate reduced this figure to \$325 million. The conferees have reached an agreement between these two amounts, as they had the authority to do.

The Chair holds that the conferees have not exceeded their authority and overrules the point of order.

Parliamentarian's Note: Such an amendment, had it been offered in the House to merely change the unauthorized amount in the House bill against which points of order had been waived, would have been protected by the waiver and thus not subject to a point of order under Rule XXI clause 2.

Senate Amendment, Within Conference Agreement, Held Authorized

§ 6.7 A point of order against a conference report, based on the contention that managers on the part of the House had agreed to a Senate amendment which provided for an appropriation not authorized by law, was overruled.

On Sept. 27, 1961,⁽²⁰⁾ the following proceedings took place:

MR. [JOHN] TABER [of New York]:
Mr. Speaker, I make a point of order

20. 107 CONG. REC. 21521, 21522, 87th Cong. 1st Sess.

against the conference report,⁽¹⁾ and I refer especially to the paragraph on page 30, under the title of "Preservation of Ancient Nubian Monuments—Special Foreign Currency Program":

For purchase of Egyptian pounds which accrue under title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704), for the purposes authorized by section 104(k) of that Act, \$4,000,000 to remain available until expended.

Mr. Speaker, to my mind that appropriation is not covered by the statute on which it is based. When we went over there—to the conference—and marked it up, I understood it was to be brought back for a separate vote. I did not hear anything else or any talk except that they were going to knock off a couple of words: "to remain available until expended."

Mr. Speaker, I feel that I should read section 104(k) which is referred to in the amendment:

To collect, collate, translate, abstract, and disseminate scientific and technological information and to conduct and support scientific activities overseas including programs and projects of scientific cooperation between the United States and other countries such as coordinated research against diseases common to all mankind or unique to individual regions of the globe. No foreign currency shall be used for the purpose of this section unless specific appropriations be made therefor.

To my mind, this authorization was not covered by the language of section 104(k). In my opinion, it does not include the sort of operation that is men-

1. On H.R. 9169, making supplemental appropriations for fiscal year 1962.

tioned here. It does not have proper authority for an appropriation of this character. It does not authorize purchase of currency.

MR. [ALBERT] THOMAS [of Texas]: Mr. Speaker, I would like the privilege of addressing the Speaker on this item.

. . . Let me first call the attention of the Speaker to the exact language on page 30 of the bill:

For purchase of Egyptian pounds which accrue under title I of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704), for the purposes authorized by section 104(k) of that act \$4 million to remain available until expended.

Let us see what 104(k) says:

To collect, collate, translate, abstract, and disseminate scientific and technological information—

That is exactly what you are doing here.

conduct and support scientific activities overseas—

Mr. Speaker, how much more definite could that be?

cooperation between the United States and other countries such as coordinated research—

And so forth.

Mr. Speaker, that language is very definite and it certainly covers this like a blanket.

I cannot see any escape from it.

Is that all, now, Mr. Speaker? May I read to the Chair section 502(c) of the Mutual Security Act of 1954, as amended:

It is the sense of the Congress that prompt and careful consideration should be given to participation by the

United States in an internationally financed program which would utilize—
What?

foreign currencies available to the United States—

To do what?

to preserve the great cultural monuments of the Upper Nile.

Can it be any more specific than that?

Mr. Speaker, I respectfully submit that our able and distinguished friend's point of order should be overruled.

MR. TABER: Mr. Speaker, if the Chair will permit, the point on which this question is to be determined is the authority in section 104(k). There is nothing there that authorizes an appropriation for the purchase of Egyptian pounds. That is what this appropriation is made for.

THE SPEAKER PRO TEMPORE: (2) The Chair is prepared to rule. . . .

. . . [I]t is the opinion of the Chair that section 104(k) justifies the language contained in the conference report and the Chair overrules the point of order.

Discussion of Senate Rule Concerning Legislation on Appropriation Bills

§ 6.8 Where a general appropriation bill passed by the House contained legislation, it was held in the Senate that such legislative provisions permitted the consideration of legislative amendments.

2. John W. McCormack (Mass.).

On May 29, 1936,⁽³⁾ the Senate was considering H.R. 12624, a deficiency appropriation bill. The following proceedings took place:

THE PRESIDING OFFICER:⁽⁴⁾ The Senator from Missouri made the point of order that the committee amendment amounted to general legislation. The Chair overruled the point of order made by the Senator from Missouri because title II of the bill as it came from the House of Representatives contained many matters of general legislation, and in such a case the rule laid down by Vice President Marshall is stated thus:

Notwithstanding the rule of the Senate to the effect that general legislation may not be attached to an appropriation bill, still when the House of Representatives opens the door and proceeds to enter upon a field of general legislation which has to do with a subject of this character, the Chair is going to rule—but, of course, the Senate can reverse the ruling of the Chair—that the House having opened the door the Senate of the United States can walk in through the door and pursue the field.

In view of that ruling, the Chair announced that the point of order made by the Senator from Missouri was overruled. From the ruling of the Chair the Senator from Missouri has appealed to the Senate.

MR. [JOEL BENNETT] CLARK [of Missouri]: Mr. President, I desire very briefly to discuss the appeal. . . .

The Chair holds, and holds properly, that title II of the bill does contain

some legislation. Many appropriation bills come over here from the House that contain some item of legislation; but from the present ruling of the Chair it would follow that if any general appropriation bill contained any item of legislation, therefore any other item of legislation would be in order in the Senate on a general appropriation bill.

I do not believe that is sound. In other words, it seems to me the necessary application of the ruling of Vice President Marshall, which the Chair has just read, would be to the particular provision which it was sought to amend, and that from the ordinary artifice of dividing a bill into titles, it does not follow that if a particular title happened to contain matter of legislation it would open up the whole title to any other item of legislation. In other words, the question should be whether or not the provision sought to be stricken out by the pending Senate amendment is legislation, and whether that should be opened up by the Senate amendment. . . .

MR. [ALVA B.] ADAMS [of Colorado]: I am thoroughly in accord with the decision of the Chair, but I beg to differ with the reasoning. My understanding of the terms “new legislation” and “general legislation” is that they should be construed to mean something alien to an appropriation bill. In other words, title II does not contain within it that which I think can be correctly defined as new or general legislation. Every part of an appropriation bill is legislation. An appropriation bill is legislation. What the rule seeks to forbid is attaching to an appropriation bill legislation upon other subjects which are new, and which are matters

3. 80 CONG. REC. 8308–10, 74th Cong. 2d Sess.

4. Carl A. Hatch (N.M.).

of general legislation, rather than the regulation, the control, and the direction of the particular appropriation. In that sense I do not believe that a limitation, however inaptly framed, which is directed exclusively to the appropriation made by the bill, is either to be termed "new" or "general" legislation. Therefore, it has seemed to me that the premise upon which the Senator from Arkansas argues is unsound.

I should be willing to concede that if this be legislation opening the gates, it would open them to germane legislation, and to germane legislation only. I cannot see that proposed legislation providing for the appointment of a commission, that commission to go out and engage in scientific undertakings, scientific investigations, to determine the commercial feasibility of a project, is germane to an appropriation bill.

THE PRESIDING OFFICER: The Chair has not ruled on the question as to whether or not it must be germane. The only question on which the Chair ruled was the point of order made by the Senator from Missouri.

MR. ADAMS: I wanted it made clear that my original point of order was submitted on the ground that the amendment of the Senator from Arkansas was general legislation and that it was not germane to the bill.

THE PRESIDING OFFICER: The question is, Shall the decision of the Chair stand as the judgment of the Senate?

...

MR. CLARK: I ask for the yeas and nays.

The yeas and nays were ordered.

...

THE PRESIDING OFFICER: The question raised by the point of order made

by the Senator from Missouri goes only to the committee amendment. The Chair overruled the point of order made by the Senator from Missouri, holding that, while the amendment did amount to general legislation, nevertheless title II of the bill itself contained many items of general legislation, and under the ruling of Vice President Marshall, the Chair, having been advised that that ruling has been uniformly followed, held that the House of Representatives having opened the door, the Senate could go in. Those were the words of Vice President Marshall. A vote to sustain the ruling of the Chair should be in the affirmative; a vote against the ruling of the Chair should be in the negative.

...

[The result was announced—yeas 53, nays 19.]

So the decision of the Chair was sustained.

On the question of the germaneness of an amendment offered by Mr. Joseph T. Robinson, of Arkansas, to the committee amendment discussed above, the following statement was made:

THE VICE PRESIDENT (John N. Garner, of Texas): Let the Chair once more state his understanding of the parliamentary situation. The present occupant regrets he was not in the chair at the time the original point of order was made. The Senate by a vote of 53 to 19 has determined that the committee amendment to the appropriation bill is in order. Therefore, any amendment that is germane to the legislation is in order. The question of germaneness of the amendment offered by the Senator

from Arkansas is the question now before the Senate.

Apparently, as the Chair is advised by the Parliamentarian, whoever drew the rules of the Senate was not willing to trust the presiding officer to determine the germaneness of an amendment of this kind, as, under the rules, the Chair does not have the right to determine the germaneness of an amendment to legislation on an appropriation bill. The Chair, therefore, submits to the Senate the question, Is the amendment of the Senator from Arkansas germane to the amendment of the committee?

[On a yea and nay vote, the Senate decided Mr. Robinson's amendment to be germane to the amendment reported by the committee—yeas 53, nays 21.]

Germane Amendment to Senate Legislative Amendment Reported in Disagreement

§ 6.9 A Senate amendment containing legislation reported from conference in disagreement may be amended by a germane amendment even though the proposed amendment is also legislative.

On Aug. 1, 1979,⁽⁵⁾ during consideration in the House of H.R. 4388 (energy and water development appropriation bill), a motion was held in order as indicated below:

MR. [TOM] BEVILL [of Alabama]: Mr. Speaker, I offer a motion.

5. 125 CONG. REC. 22007, 96th Cong. 1st Sess.

The Clerk read as follows:

Mr. Bevill moves to recede in the amendment of the Senate No. 37 and concur therein with an amendment as follows in lieu of the matter proposed to be inserted by the Senate insert:

Sec. 502. There is appropriated, out of any money in the Treasury not otherwise appropriated, for an additional amount for "Construction of an Extension to the New Senate Office Building" \$52,583,400 toward finishing such building and to remain available until expended: *Provided*, That the amount of \$137,730,400 shall constitute a ceiling on the total cost for construction of the Extension to the New Senate Office Building.

It is *further provided*, That such building and office space therein upon completion shall meet all needs for personnel presently supplied by the Carroll Arms, the Senate Courts, the Plaza Hotel, the Capitol Hill Apartments and such buildings shall be vacated.

MR. [ROBERT E.] BAUMAN [of Maryland]: Mr. Speaker, a point of order.

. . .

[T]his amendment offered at this time would not have been in order had it been offered to the bill as originally before the House. The bill is an appropriation bill and this constitutes legislation on an appropriation bill. . . .

MR. BEVILL: Mr. Speaker, I wish to point out this is merely a change of the report language that is in the appropriation bill and it is germane and it is a part of the bill.

THE SPEAKER PRO TEMPORE:⁽⁶⁾ The Chair is prepared to rule. The Chair would like to state that the only requirement of the amendment in the

6. James C. Wright, Jr. (Tex.).

motion offered by the gentleman from Alabama is that it be germane to the Senate amendment. The language is quite clearly germane to the Senate

amendment No. 37 and, therefore, the motion is in order and the point of order is overruled.

B. APPROPRIATIONS FOR UNAUTHORIZED PURPOSES

§ 7. In General

The rule⁽⁷⁾ prohibiting unauthorized appropriations and legislation on general appropriation bills is applicable only to general appropriation bills. In addition to the precedents in this chapter, extensive discussion of bills considered to be or not to be “general” appropriation bills is found in the preceding chapter on appropriation bills.⁽⁸⁾ Further discussion of the general requirement that appropriations be authorized is also to be found in that chapter.

Where the law authorizes appropriations only out of a special fund, appropriations from the general fund are deemed unauthorized.⁽⁹⁾

Contingent Upon Enactment of Authorization

§ 7.1 Language in an appropriation bill providing funds

7. Rule XXI clause 2. See § 1, *supra*, for text and discussion of the rule.
8. Ch. 25, *supra*.
9. See §§ 35.1, 35.2, *infra*.

for projects not yet authorized by law is legislation and not in order.

On Sept. 5, 1961,⁽¹⁰⁾ during consideration in the Committee of the Whole of a general appropriation bill (H.R. 9033), a point of order was raised against the following provision:

The Clerk read as follows:

TITLE V—PEACE CORPS

Funds appropriated to the President

Peace Corps

For expenses necessary to enable the President to carry out the provisions of the Peace Corps Act, including purchase of not to exceed sixteen passenger motor vehicles for \$20,000,000: *Provided*, That this paragraph shall be effective only upon enactment into law of S. 2000 or H.R. 7500, Eighty-seventh Congress, or similar legislation to provide for a Peace Corps.

MR. [EDGAR W.] HIESTAND [of California]: Mr. Chairman, a parliamentary inquiry.

THE CHAIRMAN:⁽¹¹⁾ The gentleman will state it.

MR. HIESTAND: Title V, which has just been read, has not yet been au-

10. 107 CONG. REC. 18179, 87th Cong. 1st Sess.
11. Wilbur D. Mills (Ark.).